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A SUMMARY VIEW OF THE LAWS RELATING TO SUBSCRIPTIONS, &c. WITH REMARKS,

HUMBLY OFFERED TO THE CONSIDERATION OF THE BRITISH PARLIAMENT.

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REMARKS,

Humbly offered to the Conſideration of the BRITISH PARLIAMENT.

[A] IN the Year 1553, were publiſhed by the King's Majeſty's authority, "Articles "agreed upon by the Biſhops and other learn- "ed and godly men in the laſt Convocation "at *London*, in the year of our Lord 1552, "to root out diſcord of opinions, and eſta- "bliſh the agreement of true religion." Biſhop *Sparrow*'s Collection of Articles, &c.

Remark.—It is however certain, that theſe Articles were not agreed upon *in Convocation.* Archbiſhop *Cranmer*'s account of the matter was this. "I was ignorant of the ſetting to of "that title, and as ſoon as I had knowledge "thereof, I did not like it; and when I com- "plained thereof to the Council, it was an- "ſwered by them, That the Book was ſo en- "titled, becauſe it was ſet forth in the time of "the Convocation." *Burnet*'s Hiſt. Reform. Vol. III. p. 210, 211. And *Fox*'s Martyrology. —Biſhop *Burnet* ſays, "It ſeemed to be a "great want, that this" [the publication of theſe

Articles] " had been ſo long delayed, as the " old Doctrine had ſtill the *legal* authority of " its ſide." What *legal* authority the old Doctrine had, except in the deciſions of foreign Canons which were received in this Kingdom with great reſervation of municipal Rights, &c. is not clear. The danger of dogmatizing was not unknown in thoſe days, and it would have anſwered the end of the new Eſtabliſhment juſt as well to have enjoined Subſcription to the Article cited below in the Remark upon D only.

[B] A Mandate bearing date *June* 19, in the ſeventh year of the King's reign [1553] was iſſued, addreſſed to the Officers of the Archbiſhop of *Canterbury* [*Cranmer*] (referring to a previous Mandate addreſſed to the Archbiſhop himſelf, and giving him authority to expound, publiſh, denounce, and ſignify the ſaid Articles to the King's clergy and people within his juriſdiction) to ſummon or peremptorily admoniſh all and ſingular Rectors, Vicars, Preſbyters, Stipendiaries, Curates, Rural Deans, Miniſters, Maſters of Grammar Schools, public and private Preachers of the Word of God, Lecturers and all who exerciſed any Eccleſiaſtical function of whatever denomination, including even Churchwardens, to appear at *Lambeth*, on *Friday* the 23d day of *June*, between the hours of ſeven and nine, to do

and

and receive what may be farther agreeable to reaſon, and becometh their duty to the royal dignity. *Burnet*'s Hiſt. Reform. vol. III. Collection, p. 202.

Rem. — This Mandate was iſſued purſuant to a Letter of the Archbiſhop's to the King and Council, " deſiring that all Biſhops might have authority from the King to cauſe all Preachers, Archdeacons, Deans, Prebendaries, Parſons, Vicars, Curates, with all their Clergy, to ſubſcribe the ſaid Articles."—The reaſon given by the Archbiſhop for ſuch his deſire was, " that " he truſted ſuch a concorde and quietneſs in " Religion ſhould ſhortly follow thereof, as elſe " was not to be looked for of many Years." Probably the good man found this expedient did not anſwer his expectation. For tho' his Powers by this Mandate were very full, we find him declaring at his Examination before *Weſton*, that *he compelled no man to ſubſcribe.* A Declaration that ſufficiently ſhews, he had met with oppoſition to this meaſure of *Peace* and *Quietneſs.* And moſt probably it was not only the gentleneſs of his own diſpoſition, but the conſciouſneſs of the incongruity of ſuch compulſion, with the original principles of the Proteſtant Reformation, which occaſioned his Forbearance. This is one inſtance of thoſe difficulties the firſt Reformers found in accommodating the new Eſtabliſhment to the temper of the times conſiſtently with their own Profeſſions of being determined in matters of Faith and Doctrine, by the Scriptures only. It is hardly neceſſary to obſerve,

obſerve, that ſuch Expedients are not only uſeleſs now, but highly diſparaging to the improvements we pretend to in the preſent times.

[C] A particular Mandate to the Biſhop of *Norwich*, bearing date *June* 9, directing him to cauſe the ſaid Articles to be ſubſcribed by every manner of perſon preſented unto him to be admitted to any Eccleſiaſtical Order, Miniſtry, Office, or Cure within his Dioceſe, and if any man in that caſe ſhall refuſe to conſent to any of the ſaid Articles, and to ſubſcribe the ſame, then his Majeſty willeth and commandeth him the ſaid Biſhop, that neither he, nor any for him, or by his procurement in any wiſe, ſhall admit ſuch recuſant or allow him as ſufficient or meet to take any Order, Miniſtry, or Eccleſiaſtical Cure. For which his ſo doing, his Majeſty promiſes to *diſcharge* the Biſhop from all manner of penalties or dangers of actions, ſuits, or pleas of *Premunire*, *Quare impedit*, or ſuch like. *Burnet*, Ibid. p. 203.

Rem.—Here was a ſtretch of the Royal Prerogative which the end propoſed would hardly juſtify. It was depriving the ſubject of the benefit of the Law by an arbitrary *Non obſtante*. A writ of *Quare impedit* is a writ of *Right*, and, without the Royal interpoſition, would have compelled the Biſhop to give the Clerk inſtitution,

inſtitution, without ſome better Reaſon for denying it, than that the Clerk refuſed to ſubſcribe theſe Articles.

[D] A Mandatorial letter from the Biſhop of *Ely* (Goodricke) Chancellor, and three more appointed viſitors of the Univerſity of *Cambridge*, dated *June* 1, 1553, addreſſed to Dr. *Sands* (probably Vicechancellor) and to the Regents and Non-Regents of the ſaid Univerſity, enjoining an oath to be taken and ſubſcribed by every Candidate for a degree in Divinity, or in Arts, containing, among others, the following engagement, *Deinde me Articulos de quibus in Sinodo Londinenſi Anno Domini* 1553. *ad tollendam opinionum diſſenſionem, et conſenſum veræ Religionis firmandum inter Epiſcopos et alios eruditos viros convenerat et Regia Authoritate in lucem editos, pro veris et certis habiturum, et omni in loco tanquam conſentientes cum verbo Dei defenſurum, et contrarios Articulos in Scholis et Pulpitis vel reſpondendo vel concionando oppugnaturum.* Burnet, ubi ſupra, p. 205.

Rem.—In the former part of this oath the Candidate ſwore, *ſe veram Chriſti religionem omni animo complexurum, Scripturæ authoritatem Hominum judicio præpoſiturum, regulam vitæ et ſummam fidei ex verbo Dei petiturum. Cæterа quæ ex verbo Dei non probantur, pro humanis et non neceſſariis habiturum.* It was utterly inconſiſtent

ſiſtent with the man's profeſſing theſe things, to aſſert, that he would eſteem theſe Articles for true and certain, and to defend them as ſuch againſt all mankind, upon the mere preſumption that they were agreeable to the word of God.

[E] Upon Queen Elizabeth's acceſſion, an Act of Uniformity paſſed, wherein is no mention made of Subſcription either to the Liturgy eſtabliſhed by that Act or to any Articles of Religion, nor in the viſitatorial Articles of Inquiry of the ſame year, is there any one intimating that ſuch Subſcription was required. See *Sparrow*'s Collection.

Rem.—It is remarkable that by this Statute, the Clergyman offending againſt it, is to be lawfully convicted according to the Laws of this Realm, by verdict of twelve men, or by his own confeſſion, or by the notorious evidence of the fact; and was not left ſolely to the Biſhop or Ordinary either for his trial or his puniſhment; and as the words "and be thereof "in form aforeſaid lawfully convict," or words equivalent, run through the whole Act, it was manifeſtly the intention of the Parliament to put the inferior Clergy on the footing of the reſt of the free Subjects of the Realm, and not leave them to the arbitrary cenſures of their reſpective Ordinaries, as theſe were too apt to encroach upon the civil powers, by exerciſing their

their juriſdiction, where the laws of the Realm ſhould have reſtrained them, complaints of which were frequently made in Parliament, during this reign, and particularly with reſpect to Subſcription, as will be ſeen by and by. N. B. There is one inſtance of a trial by Jury upon this Statute, before Lord Chief Juſtice *Catlin*, Biſhop *Sandys*, &c. preſerved in a Book, called *Part of a Regiſter*, &c. p. 105. The Culprit was one *Robert Johnſon*, Preacher at *Northampton*. He was indicted for adminiſtering the wine at the Communion without the words of Conſecration, for marrying without the Ring, and baptizing without making the Sign of the Croſs. He was convicted of the firſt offence, ſentenced to ſuffer a year's impriſonment, and died in the Gate-houſe before the end of the year, *viz.* 1573. In the courſe of the Trial, and from the circumſtances of *Johnſon*'s Defence, ſome points of Doctrine were diſcuſſed, and *Johnſon* was ſaid to defend a horrible Hereſy, which was probably the chief inducement with the Jury to find him Guilty. For the Fact, as *Johnſon* ſhewed, was not againſt the Order of the Book. Subſcription was hotly urged this year. But *Johnſon*'s notion of the words of Inſtitution, was not provided againſt in the Articles.

[F] In the year 1562. King Edward's Articles were reviſed, and altered, ſome things added, others taken away, and the number reduced to thirty-nine. At the end of which, is the following Ratifica-

tion. "This Book of Articles before rehearſed, is again approved, and allowed to be holden and executed within the realm, by the aſſent and conſent of our Sovereign Lady *Elizabeth*, by the Grace of God of *England*, *France* and *Ireland* Queen, Defender of the Faith, *&c.* Which Articles were deliberately read, and confirmed again by the Subſcription of the hands of the Archbiſhop and Biſhops of the upper Houſe, and by the Subſcription of the whole Clergy of the nether Houſe in their Convocation in the year of our Lord 1571."

Rem.—The Latin Articles of 1562, differ very much from thoſe [Latin] Articles publiſhed by Convocation in 1571. It is probable there was the like difference between the Engliſh copies, nor is it poſſible now to know which of them is authentic. The Biſhops and Clergy in 1562, ſubſcribed Archbiſhop *Parker*'s Latin copy, and it is likely they ſubſcribed a Latin copy reviſed, in the Convocation of 1571. But the Act of Parliament of that year refers to an Engliſh book, and how that copy agreed with that now in uſe, is totally unknown. It may be ſaid however with great truth, that, on account of the abovementioned differences, the articles now ſubſcribed, are not the Articles agreed upon in the Convocation of 1562. There is likewiſe a fallacy in the *Ratification* as it ſtands at preſent, with reſpect to the Queen's conſent, as if both books of Articles were preciſely the ſame,

ſame, and equally *approved* by her Majeſty; whereas the words ſubjoined to the Latin Articles of 1562, ſo far as the Queen's authority is concerned, are theſe, *Quibus omnibus Articulis ſereniſſima Princeps Elizabeth, Dei gratia Angliæ, Franciæ et Hiberniæ Regina, fidei Defenſor, &c. per ſeipſam diligenter prius lectis et examinatis, ſuum aſſenſum præbuit*; which her Majeſty might do without impoſing Subſcription to them on her ſubjects.

[G] In the year 1564 were publiſhed, Advertiſements partly for due order in the public adminiſtration of the Sacraments, and partly for the Apparel of all perſons Eccleſiaſtical. The Title of the laſt ſection is, "Proteſtations to be made, promiſed and ſubſcribed by them that ſhall "hereafter be admitted to any office, room "or cure in any church, or other place "Eccleſiaſtical." Under this Title are the following Proteſtations; "I ſhall not preach or publicly interpret, but only read what is appointed by public authority, without ſpecial licence of the Biſhop under his Seal. I do alſo faithfully promiſe in my perſon—to obſerve, keep and maintain ſuch order and uniformity in all external Policy, Rites and Ceremonies of the Church, as by the Laws, good Uſages and Orders, are already well provided and eſtabliſhed." *Sparrow's* Collection.

Rem.—What is here provided againſt, by this Proteſtation and Subſcription, was in a great meaſure ſecured by the Act of Uniformity, ſave in the Article of preaching and interpreting, concerning which there ſeems to have been no Law or Ordinance in being at that time, except the Queen's Injunctions of 1559; which were not underſtood then to have the force, or to make a part of the Laws of this Realm. Theſe advertiſements ſeem to have been calculated by Archbiſhop *Parker* to take the Clergy intirely into the hands of the Biſhops. What oppoſition theſe Advertiſements met with in the Queen's Council and elſewhere, and how diſtaſteful they were to many conſiderable men in different departments, may be ſeen in *Strype*'s Life of Archbiſhop *Parker*, Book 2. chap. xx.

[H] In the year 1571, An Act of Parliament paſſed injoyning Subſcription in theſe words; "Every perſon under the degree of a Biſhop which doth or ſhall pretend to be a Prieſt or Miniſter of God's Holy Word and Sacraments, by reaſon of any other form of inſtitution, conſecration or ordering, than the form ſet forth by Parliament in the time of the late King of moſt worthy memory, King *Edward* the ſixth, or now uſed in the reign of our moſt gracious Sovereign Lady, before the feaſt of the Nativity of *Chriſt* next following, ſhall in the preſence of the Biſhop

or

or the Guardian of the Spiritualities of ſome one Dioceſe, where he hath or ſhall have Eccleſiaſtical living, declare his aſſent, and ſubſcribe to all the Articles of Religion, which only concern the Confeſſion of the true Chriſtian Faith, and the Doctrine of the Sacraments, compriſed in a Book imprinted, intitled, *Articles whereupon it was agreed*, &c. and ſhall bring from ſuch Biſhop or Guardian of Spiritualities in writing, under his Seal authentic, a Teſtimonial of ſuch his Aſſent and Subſcription, and openly on ſome *Sunday* in the time of the public ſervice aforenoon in every Church, where, by reaſon of any Eccleſiaſtical living he ought to attend, read both the ſaid Teſtimonial and the ſaid Articles, upon pain that every ſuch perſon, which ſhall not before the ſaid feaſt, do as is above appointed, ſhall be *ipſo facto* deprived, and all his Eccleſiaſtical promotions ſhall be void, as if he then were naturally dead." *Statutes* 13 *Eliz.* c. 12.

Rem.—The noble ſtand made by the Houſe of Commons in the reign of Queen *Elizabeth* on divers occaſions againſt Eccleſiaſtical encroachments, and in favour of Religious liberty, plainly ſhews, that the limiting the Subſcription of the Clergy to ſuch Articles " as only concern the Confeſſion of the true Chriſtian

faith, and the doctrine of the Sacraments," in this Act, was no idle proviſion, or words without meaning. Much has been ſaid concerning the uncertainty, what Articles were not to be ſubſcribed under this reſtriction, and an argument has been drawn from thence for an unlimited Subſcription. It appears however from the Converſation between Archbiſhop *Parker* and Mr. *Peter Wentworth* in 1571, that the Articles for the Homilies, Conſecrating of Biſhops and ſuch like, were put out of the book, and were doubtleſs ſtruck out in the copy annexed to the Bill. And as that copy is now irrecoverable, and as it hath been ſaid, ſeparated by ſome unfair practice from the Act which refers to it, the Clergy muſt be left to their own judgement, which of the Articles are or are not excepted in the Statute. Some learned and worthy perſons have thought that Subſcription to the 6th and 25th Articles is ſufficient to ſatisfy the intention of the Legiſlature, the rather as the article which concerns the Homilies was certainly intended to be left out; and therefore as moſt of the doctrinal articles are but abridgements of what the Homilies treat of at more length, the Houſe of Commons had no more time to examine thoſe Articles how they agreed with the word of God, than they had to examine the Homilies, as both muſt have been examined together. It is only neceſſary to obſerve farther, that whatever Articles were enjoined by this Act to be ſubſcribed, the ſame and no other were to be read and aſſented to, as preſcribed by the

ſubſequent Sections of this Statute. See *D'ewes*'s Journal, p. 239.

[I] In the ſame year (1571.) the Biſhops put forth a Collection, intituled, *Liber quorundam Canonum Diſciplinæ Eccleſiæ Anglicanæ, Anno* 1571. in which, under the Title *de Epiſcopis*, it is ordained, that perſons approved for public preachers, ſhould have their Licences renewed, *ita tamen ut prius ſubſcribant articulis chriſtianæ religionis publice in Synodo approbatis, fidemque dent ſe velle tueri et defendere doctrinam eam quæ in illis continetur ut conſentientiſſimam veritati verbi divini.* And under the Title *Concionatores*, there is the following injunction. *Et quoniam articuli illi religionis chriſtianæ in quos conſenſum eſt ab Epiſcopis in legitima et ſancta ſynodo, juſſu et authoritate ſereniſſimæ principis Elizabethæ convocata et celebrata haud dubie collecti ſunt ex ſacris literis veteris et novi Teſtamenti, et cum cæleſti doctrinâ quæ in illis continetur, per omnia congruunt; quoniam etiam liber publicarum precum, et liber de inauguratione archiepiſcoporum, epiſcoporum, preſbyterorum et diaconorum, nihil continent ab illa ipſa doctrina alienum, quicunque mittentur ad docendum populum, illorum articulorum, authoritatem et fidem, non tantum concionibus ſuis, ſed etiam ſubſcriptione confirmabunt. Qui*

ſecus fecerit, et contrariâ doctrina populum turbaverit, excommunicabitur. Sparrow's Collection.

Rem.—The intention of theſe Injunctions for Subſcription to the Articles, was to ſupply, what the Biſhops thought the Parliament had left ſhort, namely, to require a Subſcription to *all* the Articles, as appears by their making the Subſcriber aſſert their agreement with the word of God, and particularly mentioning the Book of Conſecrating of Biſhops, &c. It is however certain, that the Queen never gave her Sanction to theſe Canons, and *Grindal* then Archbiſhop of *York* " doubted whether they had *vigorem legis*," [which out of all doubt they had not] " and " thought the Queen's *verbal* aſſent would not " ſerve them, if they ſhould be impleaded in " a Caſe of Premunire," in which he was very much in the right.

[K] In the year 1584. the Biſhops and Clergy of the Province of *Canterbury* aſſembled in Convocation, put forth a Collection intituled, *Articuli pro Clero*, in which it was injoyned, that no Biſhop ſhould thereafter admit any perſon to Holy Orders, except he was of his own Dioceſe, &c. *vel ſaltem, niſi rationem fidei ſuæ juxta articulos illos Religionis in Synodo Epiſcoporum et cleri approbatos latino ſermone reddere poſſit, adeo ut ſacrarum literarum teſtimonia quibus eorundem*

eorundem Articulorum veritas innititur recitare etiam valeat. Sparrow's Collection.

Rem.—Archbiſhop *Whitgift* was now promoted to *Canterbury*. His predeceſſor *Grindal* had complained greatly of the ignorance of the Clergy, and had uſed his utmoſt endeavours to ſupply the Church with abler men; but generally without effect. By this time, it is likely, the Biſhops began to ſee the impropriety of requiring Subſcription of poor Curates and Candidates for Orders to a ſet of Articles of which they knew ſo little; and to obviate any reproach that might ariſe from this practice, enjoined the examination mentioned in theſe Canons. And had they ſtuck to this expedient, it may eaſily be imagined they muſt not have ordained a Tithe of the Candidates who aſpired to the Prieſthood. Perhaps very few at this day would undertake to recite the teſtimonies of Holy writ, on which the truth of theſe Articles depends. The Spirited Commons, however, became ſenſible of this arbitrary impoſition, and in the Parliament of 1585 petitioned the Houſe of Lords, among other matters relating to the Church, "That for the encouragement of many to enter into the Miniſtry which are kept back by ſome conditions of Oaths and Subſcriptions whereof they make ſcruple, it may be conſidered, whether this favour may be ſhewed them, that hereafter no Oath or Subſcription be tendered to any that is to enter into the Miniſtry, or to any Benefice with Cure, or to any place of preaching,

" ing, but ſuch only as be expreſly preſcribed " by the Statutes of this Realm; ſave only that " it ſhall be lawful for every Ordinary to try " any Miniſters preſented to any Benefice " within his Dioceſe by his Oath, whether he " is to enter corruptly or incorruptly into the " ſame." *D'ewes*'s Journal, p. 358. It is humbly preſumed, that the Anſwer of the Archbiſhop of *York* to this reaſonable Petition, is far from being ſatisfactory upon Proteſtant principles.

[L] In the year 1597 were put forth, *Capitula ſive Conſtitutiones Eccleſiaſticæ*, by the Archbiſhop, Biſhops, and Clergy of the Province of *Canterbury* aſſembled in Convocation, ſaid in the Title-page to be confirmed under the Great Seal of *England*. In this collection, the requiſite qualification of Miniſters, ſo far as relates to the Articles, is preſcribed in the ſame words. *Sparrow*'s Collection.

Rem.—By this time Archbiſhop *Whitgift* had ſo far eſtabliſhed his power that all oppoſition to his ſyſtem of Diſcipline became fruitleſs even in Parliament. *Strype* relates that, " a great " heap of Grievances in the Church were thrown " into the Parliament [of 1597] by Bills put in " by divers perſons; but were not read, by " means, no doubt, of ſome higher influence." Among others, " A grievance no way inferior " to the former the ungodly uſe of the Statute

" of

" of 13 *Eliz.* concerning Faith and Sacraments, " by which men are forced to Subſcription, " and forced to accuſe themſelves," i. e. by declaring their diſſent from ſuch Articles as did not concern Faith and Sacraments. N. B. Theſe Canons were confirmed under the Great Seal, and they ſeem chiefly to aim at reforming ſome abuſes in the Eccleſiaſtical courts; by way, one may ſuppoſe, of precluding enquiries into ſuch matters, in Parliament. *Strype*'s Life of *Whitgift*, p. 509.

[M] In the year 1603, the Convocation compoſed the Book of Canons now in uſe, the thirty-ſixth of which injoyns Subſcription, 1. To the King's Supremacy. 2. To the Book of Common Prayer, as containing in it nothing contrary to the word of God. 3. To the thirty-nine Articles, acknowledging all and every the ſaid Articles to be agreeable to the word of God. Which Subſcription is to be made in this form of words. " I *N. N.* do willingly and *ex animo* ſubſcribe to theſe three Articles abovementioned, and to all that are contained in them." The Royal aſſent to theſe Canons is atteſted under the Great Seal of *England* *.

Rem.—It is queſtionable how far theſe Canons are binding. Some great authorities ſay, they have no force with reſpect to the Laity, and that they bind the Clergy only by virtue of their Oath of

* See the Grace annexed.

Canonical

Canonical obedience, which however is limited to *things lawful and honeſt*, and what is *lawful* and *honeſt* in Canonical commands or injunctions cannot *in equity* be determined before the Perſon againſt whom the crime of diſobedience is committed. It is againſt the principles of juſtice, and the genius of the Britiſh conſtitution, that the ſame man ſhould be both judge and party. Prohibitions from the temporal Courts lye againſt the Courts eccleſiaſtical, in caſes which concern the Clergy as well as the laity. Why ſhould not the caſe of this Canonical Subſcription (as the temporalities of beneficed Clerks are *now* made to depend upon a compliance with it) be ſubject to the verdict of twelve men, as other caſes of leſs importance are made to be, by the Act 1. *Eliz.* cap. 2? Very many of theſe Canons are totally fallen into diſuſe, on account of the impracticability of carrying them into execution. Others, which might be executed, are wholly neglected, poſſibly becauſe the execution of them might ſet the exerciſe of Canonical diſcipline in ſo many trifling matters, in too odious a light. But can any thing be more odious than to compel a learned and Proteſtant clergy to ſubſcribe implicitly to all theſe antiquated propoſitions, on the pain of being excluded from the benefit of any temporal emolument in the Church, where they might be of the greateſt uſe to the people?

[N] In the year 1613. A Grace was paſſed by the Univerſity of *Cambridge*, in conſequence of Letters from King *James* I. pre-

preſcribing Subſcription to the three Articles in the 36th Canon to the Candidates for the Degree of Batchelor of Divinity, and of Doctor in each faculty *.

[O] In the year 1616, the King (*James* I.) ſent directions to Dr. *John Hill*, then Vice Chancellor, and the Heads of Houſes in the Univerſity of *Cambridge*, ſignifying his pleaſure that he would have *all* who take any degree in the Schools, to ſubſcribe to theſe Articles.

Rem.—Remarks on theſe Royal Directions, will be found under the Letter [S].

[P] In the year 1628 King *Charles* I. cauſed the 39 Articles to be republiſhed, prefixing thereto a *Declaration*, prohibiting the leaſt difference from the ſaid Articles, and conſigning thoſe who ſhould affix any new ſenſe to any Article to the Church's cenſure in his Majeſty's Commiſſion Eccleſiaſtical, declaring that his Majeſty would ſee due execution done upon them.

Rem.—Nothing can be more inconſiſtent than to continue this Declaration at the head of the 39 Articles, while every Subſcriber is, by Canon 36, confined to a particular invariable form of words, in expreſſing his aſſent and conſent to

* See the Grace annexed.

them;

them; nor can any judgment be made, where an article is ambiguously expreſſed, which of the ſenſes given to it by different interpreters, may be called *drawing it aſide from the plain and full meaning thereof:* Nor is the puniſhment threatened, for offences againſt this declaration, now poſſible to be executed, as, thanks be to God and a virtuous Legiſlature, the Commiſſion eccleſiaſtical, to which the Offender is conſigned for his cenſure, is no longer in being.

[Q] In the year 1640 were framed by the Archbiſhops, Biſhops, and Clergy in Convocation, Conſtitutions and Canons Eccleſiaſtical, in the ſixth of which an Oath is injoyned to be taken by all Archbiſhops and Biſhops and all other Prieſts and Deacons, all Maſters of Arts (the Sons of Noblemen only excepted) all Batchelors and Doctors in Divinity, Law or Phyſic, all that are licenſed to practiſe Phyſic, all Regiſters, Actuaries and Proctors, all Schoolmaſters, all ſuch as being Natives or naturalized, do come to be incorporated into the Univerſities here, having taken a degree in any foreign Univerſity, "that they approve the Doctrine and Diſcipline or Government eſtabliſhed in the Church of *England*, as containing all things neceſſary to Salvation." *Sparrow*'s Collection.

Rem.—For the objections made to this arbitrary

trary oath, See *Fuller*'s Church Hiſt. xi. Book, p. 170, 171. And *Heylin*'s Life of Archbp. *Laud*, p. 443.

[R] December 16 : 1640. Upon a debate in the Houſe of Commons concerning theſe Canons, it was reſolved, *nemine Contradicente*, " that the Clergy of *England* convened in a Convocation or Synod, or otherwiſe, have no power to make any Conſtitutions, Canons or Act whatſoever in matter of Doctrine, Diſcipline or otherwiſe, to bind the Clergy or Laity of the land, without common conſent of Parliament." And at the ſame time it was unanimouſly reſolved " that theſe particular Canons do contain in them matter contrary to the King's Prerogative, the fundamental Laws and Statutes of the Realm, to the Rights of Parliament, to the property and liberty of the Subjects, and matters tending to ſedition, and of dangerous conſequence." *Ruſhworth*, Vol. IV. p. 112.

Rem.—This Reſolution moſt certainly reprobated the Canons of 1603, as well as thoſe of 1640. The former, any more than the latter, never had any common conſent of Parliament. It is in vain to pretend that this vote was paſſed in times of irregularity. The forms of Parliament were never more ſolemnly or religiouſly obſerved: and, as it ſeems, this reſolution is not at all

different from the language of the Statute 13 *Car.* 2. chap. xii. wherein it is ſaid, that nothing in that Statute ſhall be conſtrued " to confirm " the Canons made in the Year 1640, nor any " of them, nor any other Eccleſiaſtical laws or " canons not formerly confirmed, allowed or " enacted by Parliament, or by the eſtabliſhed " Laws of the Land, as they ſtood in the year " of our Lord 1639." The Canons of 1603, had no *eſtabliſhment* but King *James*'s Licenſe and Ratification: and no leſs had the Canons of 1640, the Licenſe and Ratification of King *Charles* I. And if ever the matter ſhould come to a fair Trial, King *James*'s Canons could no more ſtand before the eſtabliſhed Law of the Land, than thoſe of King *Charles*. And whatever authority one of theſe Princes derived from the 25th of *Hen.* 8. the other had equally the ſame.

[S] *January* 19: 1640-41. " Upon Mr. *White*'s report from the Grand Committee for Religion, it was reſolved upon the queſtion, that the Statute made about twenty-ſeven years ago in the Univerſity of *Cambridge*, impoſing upon young Students a Subſcription according to the 36th Article of the Canons, made in the Year 1603, is againſt the Law and Liberty of the Subject, and ought not to be preſſed upon any Student or Graduates whatſoever." *Ibid.* p. 149.

Rem.—From the manner in which this Reſolution

lution is expreſſed, it is probable the Caſe ſtood thus. King *James*'s Letters to the Univerſity required Subſcription of Batchelors in Divinity and Doctors in each Faculty. This became a *Statute*, but was probably extended to other graduates *pro arbitrio*, and this being objected to, the Univerſity might apply in 1616 to the King for his *farther* pleaſure in this matter, and the affair coming before the Parliament in 1640, they ſeem to have taken both orders together. Otherwiſe it is certain that the Statute of 1613 extends to no *younger ſtudents* than Batchelors in Divinity, and Doctors in each Faculty. But this is wholly conjectural. The material obſervation is, that the whole Practice is juſtly and ſeverely condemned in a moſt wiſe and righteous Parliament.

[T] In the year 1662. 13 & 14 *Car.* II. was paſſed the laſt Act of Uniformity, by which Subſcription to the Declaration of Conformity to the Liturgy of the Church of *England*, as by Law eſtabliſhed, is required of every Dean, Canon, Prebendary of every Cathedral or Collegiate Church, and of all Maſters and other Heads, Fellows, Chaplains and Tutors, of or in any College, Hall, Houſe of learning or Hoſpital, and of every public Profeſſor and Reader in either of the Univerſities, and in every College elſewhere, and of every Parſon, Vicar, Curate, Lecturer, and of every other perſon in holy Orders, and every Schoolmaſter keeping any

public or private School, and of every perſon inſtructing or teaching any Youth in any houſe or private family as a Tutor or Schoolmaſter. And by the ſame Statute Subſcription unto the nine-and-thirty Articles mentioned in the Statute made in the 13th year of the reign of the late Queen *Elizabeth*, is required of the Governor or Head of every College or Hall in either of the Univerſities, and of the Colleges of *Weſtminſter*, *Wincheſter* and *Eaton*, and all upon the pain of forfeiting their reſpective offices or preferments, from the Dean down to the petty Schoolmaſter.

Rem.—This vindictive Statute, having now compleatly done its work, and occaſioned ſuch a variety of diſtreſs from the Reſtoration to this preſent hour, to ſuch of the clergy as could not aſſent to the principles of King *Charles* the ſecond's Biſhops, may now, we hope, be ſoftened and qualified, without any detriment to the Church of *England*. Neither King, Lords nor Commons have any thing to fear from the mutinous ſpirit of a peeviſh, irritated and obſtinate generation of Nonconformiſts. The Toleration laws have rendered Proteſtant Diſſenters of all Denominations, peaceable, rational and valuable Subjects to the Civil Government; and the Clergy of the eſtabliſhed Church, who ſolicit a relaxation of their preſent bonds, derive their pretenſions only from the original principles of the Proteſtant reformation, and thoſe generous

maxims of Civil and Eccleſiaſtical policy which give a ſanction to the Revolution of 1688, and to the Settlement of the Crown in the lineage of our moſt gracious Sovereign, to whom and his Royal Houſe they profeſs the moſt ſincere and cordial attachment. They fly for aſſiſtance on the preſent occaſion to that auguſt Body, who have ever been the Protectors of the Rights and Privileges of the *Britiſh* Subject, and who have in many periods of our Hiſtory, from the firſt dawn of Reformation, ſhewn their care and concern to deliver the pious and conſcientious Clergy, not only from the oppreſſions of the Roman Pontiff, but from the attempts and encroachments of many in high places, whoſe ambition diſpoſed them to eſtabliſh the like uſurpations, under a more plauſible pretext. The time is now come, they hope, when a candid hearing will be given to their reaſonable and modeſt Remonſtrances, and all obſtructions to their relief removed, which are founded in nothing, but a deſire of exerciſing a deſpotic Rule over the Conſciences, or in pretended fears and apprehenſions of Conſequences, which can have no place, where the freedom ſolicited has no other object than the promotion of peace and unity, virtue and true piety among Clergy and People in the preſent ſtate of things, and the everlaſting Salvation of all in the world to come.

Upon the whole, the ſeveral Statutes enjoining Subſcription to the thirty-nine Articles are, in their preſent ſtate, liable to different conſtructions, particularly with reſpect to the limitation in the Statute, 13 *Eliz.* c. 12.——And the Statute,

tute, 13 & 14 *Car.* II. commonly called the Act of Uniformity, referring where Subſcription to the Articles is by that Act enjoined, to the Statute of Queen *Elizabeth* before-mentioned; it is now become uncertain to which, or to how many of the ſaid Articles, the Clergy are bound, by the ſaid Statutes, to ſubſcribe: And with reſpect to their Obligation to ſubſcribe the ſaid Articles, as a condition of holding their Temporalties, the ſaid Uncertainty is not removed by the requiſition of the 36th Canon to ſubſcribe to *all* and *every* the ſaid Articles, inaſmuch as the ſaid Canon hath never been authoriſed or confirmed by Parliament; and as by the Conſtitution of this Realm no Freehold can be paſſed or legally held by Virtue of the Canon Law only, as that would give the Canon Law a paramount authority over the common and ſtatute Law of theſe Kingdoms, and would be moreover an infringement of his Majeſty's Supremacy.

F I N I S.

APPENDIX:

Since the foregoing ſummary View *was printed off, we have been favoured with the following account of the Origin of Subſcriptions to the* 39 *Articles and the* 36*th Canon, in the Univerſity of* Oxford.

" AFTER Queen *Elizabeth* had viſited *Oxford*, ſeveral Regulations, reſpecting Dreſs and Diſcipline, were by her recommended to the Univerſity. Accordingly, in the year 1573, among many other Acts to put her Majeſty's Reformation in execution, it was *decreed in Convocation*, That each Candidate for the future, previous to his taking his Degree, ſhould ſubſcribe the Articles, as the form requires at preſent.

" Afterwards, in the year 1576, it was farther decreed, That every perſon above the age of ſixteen, who entered his name in any College or Hall, ſhould, before the *Friday* ſe'nnight after his entrance, be matriculated, and then ſubſcribe the Articles of the Church; and that the Vice-

" chancellor or Proctors ſhould give him a
" certificate of having done ſo.

" *Anthony Wood* ſays, that the Puritans
" of thoſe days complained ſadly of this
" *unchriſtian reſtraint*; that many of them
" refuſed to comply with it, and abſolutely
" ſuffered themſelves to be deprived of their
" emoluments in the Univerſity.

" But whether it was owing to the oppo-
" ſition of the Puritans, or becauſe theſe
" Decrees of Convocation were not armed
" with ſufficient authority, this Subſcrip-
" tion ſoon came into diſuſe:

" In the year 1616 the Univerſity ap-
" plied to King *James*, for powers to make
" new Decrees to enforce Subſcription. The
" account which *Wood* gives of it, is as fol-
" lows:

" Having mentioned the founding of
" *Jeſus* and *Wadham* Colleges, he adds, that
" this additional number of Colleges, con-
" tributed to the ſpreading of Calviniſm;
" it was therefore intimated to the King,
" that there was danger that Preſbyterian-
" iſm would overrun the whole kingdom,
" if Students ſhould imbibe the Principles
" of it along with the rudiments of acade-
" mical learning; and that this was the ra-
" ther to be apprehended, in that ſo very
" few ſubſcribed their aſſent to the three
" Articles contained in the 36th canon;

whence

" whence it would happen, that they who
" were diſaffected to the eccleſiaſtical go-
" vernment of the Church, and the Liturgy,
" and made no account of the other ſacred
" offices, would give their whole attention to
" Sermons; by which means thoſe ſilly fel-
" lows, called *Lecturers*, would have an op-
" portunity of ſpreading opinions directly
" contrary to the doctrine of the Church of
" *England*. Theſe things being inſinuated
" to the King, he held a conſultation with
" his Biſhops, and ſome other Churchmen
" about him, on the 18th of *January*; and,
" after mature deliberation, tranſmitted cer-
" tain orders to the Vice-chancellor, ſome
" Heads of Houſes, the Doctors of Divi-
" nity, and the two Proctors, requiring
" them to aſſiſt in the execution of them.
" The firſt of them was, That every one ad-
" mitted to a Degree in the Univerſity
" ſhould ſubſcribe to the three Articles
" abovementioned. The execution of theſe
" orders was committed by the Earl of *Pem-*
" *broke*, newly made Chancellor of the
" Univerſity, to the Vice-chancellor, Heads
" of Houſes, and ſome others, whom his
" lordſhip exhorted to put them in prac-
" tice with all diligence. And that theſe
" orders might not want the authority of
" Statutes, or rather might be reduced into
" the form of Statutes, certain Delegates

" out of the Heads of Colleges were ap-
" pointed, who, by their joint labours and
" counſels, finiſhed and iſſued, on the laſt
" day of *March*, the following Decrees.—
" With reſpect to the Articles of faith, it
" was decreed, that Subſcription ſhould be
" made in this form:

" Ego A. (vel nos, A. B.) perlectis pri-
" us, vel ab alio coram me (vel nobis)
" recitatis Orthodoxæ fidei et Religionis
" Articulis xxxix, et in Sacra Synodo
" Londini habita A. D. 1562, conſtabi-
" litis, ſimulque tribus capitibus in alia
" Synodo Londinenſi ſub annum 1604 de-
" cretis, et in Canonem 36to. redactis,
" ſciens volenſque (ſeu ſcientes et volen-
" tes) ex animo ſubſcribo (vel ſubſcribi-
" mus.")

" The preſent form of preſenting people
" to their degrees was alſo at the ſame time
" appointed, to be ſaid by their reſpective
" Deans, ending—Quem inſuper ſcio legiſſe,
" vel lectos audiviſſe omnes articulos fidei
" quibus coram Procuratoribus ſubſcripſit."

" *Wood* ſays, that when theſe Statutes
" came to be publiſhed, they gave great of-
" fence to, and were conſidered as grievances
" by, the Puritans, and occaſioned not a few
" invidious reflections upon Doctor *Laud*,
" as he was not only the adviſer of theſe
" Articles" (meaning the particulars com-

prehended in theſe new Statutes) " but " one of the delegates who framed the ſaid " Statutes; to which however the Puritans " conformed, though with reluctance, leſt, " by ſlighting what was enjoined by the " King's authority, they ſhould expoſe them- " ſelves not only to expulſion, but to ſome " more grievous puniſhment."

REMARKS.

All this, in the opinion of *Wood*, was extremely right, and as it ſhould be. Paſſing by, however, the practiſing in this manner upon the King, and the views of diſtreſſing thoſe who were diſtinguiſhed by the name of *Puritans* (views, worthy only of the wretched Policy of thoſe days) we may be allowed to examine what *legal* authority theſe *injunctions* may be ſuppoſed to have in the preſent times. It does not appear that Queen *Elizabeth* gave any particular directions concerning Subſcription to the 39 Articles. This was merely the effect of a Decree of the Univerſity aſſembled in Convocation. The diſuſe of Subſcription, notwithſtanding this Decree, and the ſubſequent application to King *James*, diſcover a conſciouſneſs in the Governors of *Oxford*, that a Decree of their Convocation was void of authority to inforce Subſcription. With reſpect to King *James*'s Orders or Mandates, it does not appear, whether, by the word, *Edixit*, we are to underſtand a formal *Edict* in writing, authenticated by the King's ſign manual; or ſome general directions, to put in execution what his Majeſty would have decreed by the

the Univerſity; or laſtly, ſome verbal Orders given to their Chancellor, the Earl of *Pembroke*. It may be queſtioned, whether the Delegates, in reducing theſe Orders into the form of Statutes, did not exceed their Commiſſion; or indeed, whether the Univerſity had any ſuch authority to delegate. For to whatever the Royal Mandate might amount, previouſly to the compoſing new Statutes, the academical doctrine *has been*, if I miſtake not, that no Statutes are binding upon them, which have not the Royal Aſſent or Ratification; and nothing of that ſort appears from *Wood*'s account, which, indeed, is very confuſed, and wants explanation in many particulars. If, on the other hand, our Univerſities have authority to *make* valid Statutes, without the Royal Ratification, they muſt have authority to *repeal* them. And yet this is what the *Cambridge* men lately denied, and thought moreover, that recourſe muſt be had to the *Legiſlature* to have ſuch Statute repealed or altered, tho' it has only the ſanction of a Grace paſſed in the Senate. Which ſuggeſts a queſtion, By what authority their predeceſſors aboliſhed the practice of requiring Subſcription from the Students at the time of their matriculation? It ſhould be mentioned, to the honour of *Cambridge*, that there was no Subſcription required of the Students, or Candidates for Degrees, in that Univerſity, in the days of Queen *Elizabeth*; which I think amounts to a proof, that the Queen did not give any *particular* directions concerning that matter at either of the Univerſities, and that without ſuch directions, *Cambridge* did wiſely in not taking the Decree of *Oxford* for a precedent fit for them to follow. The authority, given by

King

King *James* to the Univerſity of *Cambridge*, in 1616, to require Subſcription of young Students, ſeems to be very weak. It is only *the ſignification of his Majeſty's pleaſure*, ſeconded by a letter from the Biſhop of *Wincheſter*, to the Vice-chancellor, which ſeems to leave much to the *option* of the Univerſity, the Heads of which did not, that I can find, ſollicit his Majeſty's directions on this behalf, after the example of *Oxford*. But, ſince the practice of requiring Subſcription of young Students, obtains at both Univerſities, it had been well if *Cambridge* had followed the example of *Oxford*, in taking care that the young Subſcribers ſhould either read the Articles, or hear them read, previous to their ſigning their aſſent to them. The formality with which this circumſtance is atteſted, by the perſon who preſents the Candidates at *Oxford*, ſhould ſeem to imply more than a bare reading; ſomething, perhaps, like an explanatory Lecture upon theſe Articles. But this is conjecture; and, by an eaſy figure, *reading* may include *underſtanding* them. Indeed, as reading the Articles before taking the firſt Degree, would be a novelty at *Cambridge*, ſome of the young ſophiſters might be pert enough to aſk queſtions, or form ſyllogiſms upon particular paſſages, which it might take more time to anſwer than could well be ſpared at the buſy ſeaſon of conferring Degrees. And probably they who have the ordering of ſuch things, may think it ſufficient to ſay, *They may read the Articles if they will. No-body hinders them. If they do not, it is their own fault.* This is eaſily ſaid; but ſome people may be of opinion, that, be the *legal* obligation to ſubſcribe what it may, there is a point of

of *equity* inſeparable from ſuch caſes as this, namely, That they who undertake the education of theſe young men, ſhould not content themſelves with knowing that they have *read* theſe Articles. If they will have Degrees, it is not at their option whether they will ſubſcribe them or not. Muſt not honeſt and conſcientious Tutors and Governors be ſenſible, that it pertaineth to the faithful diſcharge of their offices, to inſtruct theſe young men in the Doctrines of theſe Articles, to apprize them of the nature and tendency of Subſcription, and to give ſatisfactory anſwers to ſuch doubts or difficulties as the ſenſe and apprehenſion of the Candidates may ſuggeſt to them? The whole affair is too melancholy to be farther dwelt upon. Let us bluſh for what is paſt, and unite our endeavours, that theſe ſhameful blemiſhes in our diſcipline, may be no longer our *opprobrium*.

FINIS.

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